W.P. No. 536 of 2003 (S/B)

Hon. P.C. Verma, A.C.J.

Hon. Rajesh Tandon, J.

Heard Shri Akhilesh Kalra, learned counsel for the petitioner and Shri P.M.N. Singh, learned Advocate for respondent No. 4.

This writ petition is filed by the petitioner seeking a writ of certiorari to quash the list dated 15.11.2003 issued by State of U.P. allocating the respondent No. 4 to State of Uttaranchal. The grievance of the petitioner is that the respondent No. 4 is being placed above the petitioner and he is being considered for promotion in Jal Sansthan. A perusal of the impugned list shows that it is not an allocation under section 73(2) issued by the Government of India, therefore, it is not a final allocation. Sub-section 1 of section 73 provides that other employee of the erstwhile state of U.P. who is posted either in state of Uttaranchal or U.P. after the appointment day, shall be treated to be appointed provisionally.

Therefore, the grievance of the petitioner is pre-mature. However, we made it clear that any promotion made from the tentative seniority list of the officers working in the State of Uttaranchal shall be provisional and subject to the final allocation by the Central Government under section 73(2).

Learned counsel for respondent No.4 Shri P.M.N. Singh made a statement at bar that option for allocation to State of Uttaranchal is pending before the Board constituted under Section 76 of the Reorginization Act. However, the Board shall consider the option of the petitioner without being influenced by the Tribunal's order. Since, the respondent No. 4 has opted for state of Uttaranchal as stated by his counsel, his promotion order cannot be interfered at this stage as he became the member of service of Kumaon Jal Sansthan prior to the petitioner.

With the aforesaid observations, petition is disposed of finally.

Dt. 23.12.2003.

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